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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]

DECISION

FOO/142612

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 25, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on September 06, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly reduced the Petitioner's FS benefits to \$37/month effective August 1, 2012.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Katherine May

Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

### **FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The Petitioner's FS group includes herself and three minor children, SM, MM and EM.
3. In July, 2012, the agency was notified that the Petitioner had begun to receive Unemployment Compensation (UC) benefits in the amount of \$182/week. Her monthly income from UC benefits is \$782.60 (\$182 x 4.3 weeks). The Petitioner's FS case was updated with this information on July 12, 2012.
4. The Petitioner has Social Security Income (SSI) of \$312/month. SM has SSI income of \$312/month. MM has Supplemental SSI income of \$711.98/month. EM has SSI income of \$312/month. Total gross monthly household income is \$2,430.58.
5. Petitioner's monthly rental expense is \$866.
6. On July 13, 2012, the agency issued a Notice of Decision informing the Petitioner that her FS benefits would decrease from \$389/month to \$37/month effective August 1, 2012.
7. On July 25, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

In determining the amount of FS to be issued each month, the agency must budget all earned and unearned income of the FS household. 7 C.F.R. §273.9(b). This includes child support, Social Security, Supplemental Security Income (SSI), SSDI, child support, and W-2 payments received by household members. FoodShare Wisconsin Handbook (FSH), § 4.3.1.

If any change in income is reported to the agency, the agency is required to take action on the reported change within 10 days. FSH §§ 6.1.1.2. and 6.1.3.1. For reported changes that result in a decrease in benefits, the agency must process the change to allow for adequate negative notice to be issued to the client. FSH § 6.1.3.6 and 7 CFR 273.12(c)(2)(i). A notice of adverse or negative action regarding the reduction of benefits must be mailed at least 10 days before the effective date of the action. FSH § 6.3.1 and 7 CFR § 273.13.

FS benefits are calculated pursuant to 7 C.F.R. § 273.9. The maximum FS allotment amounts, based on household size, are listed at FSH, § 8.1.

In this case, the Petitioner does not dispute the monthly income calculated by the agency and does not have any specific dispute regarding the calculation of benefits. She noted that her utilities have increased to approximately \$200/month. She argued that the agency did not provide sufficient notice to her of the decrease in benefits to allow her to plan for the decrease.

The change in income was reported to the agency on July 12, 2012. The agency was required to act on that reported change within 10 days. The agency processed the change in income on July 13, 2012. Because the change resulted in a decrease in benefits, the agency was required to send a notice of the negative action at least 10 days before the decrease became effective. The agency mailed the notice on July 13, 2012. The decrease in benefits was effective August 1, 2012. The agency complied with the regulations in processing the reported change and providing notice to the Petitioner.

I reviewed the agency's calculations of the Petitioner's FS allotment. The agency correctly determined that the Petitioner's gross monthly income of \$2430.58 is below the gross income limit of \$3,726 for a household of four. The agency correctly applied a standard deduction of \$155. It also applied a shelter deduction of \$172.21 calculated by adding a utility standard (\$444) and rent expense (\$866) and

subtracting 50% of adjusted income. With the deductions, the Petitioner's net income is \$2,103.37. The maximum allotment for a household of four is \$668. According to the regulations, the benefit amount is determined by subtracting 30% of net adjusted income ( $\$2,103.37 \times .30 = \$630.90$ ) from the maximum allotment. In this case, the agency correctly determined the Petitioner's monthly FS benefit as \$37 ( $\$668 - \$630.90$ ).

I conclude, based on the evidence, that the agency provided proper notice of the decrease in benefits effective August 1, 2012 and properly determined the Petitioner's monthly FS allotment as \$37 effective August 1, 2012.

### **CONCLUSIONS OF LAW**

The agency properly reduced the Petitioner's FS benefits to \$37/month effective August 1, 2012.

**THEREFORE, it is**

**ORDERED**

That the petition be, and hereby is, dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

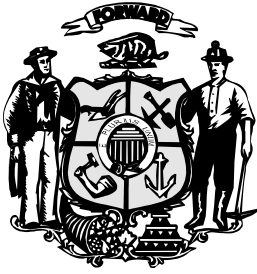
The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 18th day of September, 2012

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Debra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals

c: Milwaukee Enrollment Services - email  
Department of Health Services - email



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on September 18, 2012.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability